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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,406	10/23/2006	Marco Di Meco	8776-003	8727
20575	7590	08/29/2008	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			ALTUN, NURIB	
			ART UNIT	PAPER NUMBER
			4165	
			MAIL DATE	DELIVERY MODE
			08/29/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/595,406	DI MECO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nuri Boran ALTUN	4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 14 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>14 April 2006</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-10, as originally filed, are currently pending and have been considered below.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1 and 8 recite, “mainly by particles of average size smaller than 10 micrometers.” The combination of “mainly” and “average” renders the claim indefinite as the scope is not clear.**

**Claim 3 recites ‘said second elastomeric material.’ Elastomeric material is not defined as first or second in the preceding claims. This phrase is interpreted as ‘said elastomeric material.’**

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Meco et al. (US# 2002/0015825)**, in view of **Osako et al. (EP 1,052,425)**.

**As per claim 1,** Meco et al. teach a toothed belt (1), comprising a body (2) and a plurality of teeth (4); said teeth being coated with a fabric (5); said fabric (5) being coated on the outside with a resistant layer (8); said resistant layer (8) comprising a fluorinated plastomer, an elastomeric material (see paragraph 0028) and a vulcanizing agent (see paragraph 0032); said fluorinated plastomer being present in said resistant layer (8) in an amount higher than that of said elastomeric material (see paragraph 0028, lines 5-7);

However Meco et al. doesn't explicitly disclose said toothed belt being characterized in that said fluorinated plastomer is formed mainly by particles of average size smaller than 10 micrometers, and in that said resistant layer is made to adhere directly to said fabric.

Osako et al. teach a power transmission belt and method of manufacturing the power transmission belt with the concept of having said toothed belt being characterized in that said fluorinated plastomer is formed mainly by particles of average size smaller than 10 micrometers (see paragraphs 0062 and 0063),

and in that said resistant layer (8) is made to adhere directly to said fabric (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the belt of Meco et al. to include plastomer particle configuration taught by Osako et al. in order to improve dispersion of the materials,

thereby ensuring a consistent product and performance (See paragraph 0063 of Osako et al.)

**As per claim 2,** Meco et al. teach said fluorinated elastomer is polytetrafluoroethylene (paragraph 0033, lines 1-4).

**As per claim 3,** Meco et al. teach second elastomeric material comprises HNBR (paragraph 0033, lines 4-5).

**As per claim 4,** Meco et al. teach said second elastomeric material comprises HNBR modified with a zinc salt of polymethacrylic acid (paragraph 0033, lines 5-8).

**As per claim 5,** Meco et al. teach said resistant layer (8) comprises said fluorinated elastomer in an amount by weight of between 101 and 150 parts by weight with respect to said elastomeric material (see paragraph 0031).

**As per claim 7,** Meco et al. and Osako et al. teach all the structural elements of the claimed invention, as mentioned in claim 1. Meco et al. further lacks said resistant layer being applied directly on said fabric via spreading.

Osako et al. teach said resistant layer (8) is applied directly on said fabric (5) via spreading (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the belt of Meco et al. to include the layer application taught by Osako et al. in order to provide uniform structure.

**As per claim 8,** Meco et al. teach a process for fabrication of a toothed belt (1), comprising:

forming an elongate belt body (2) of an elastomeric material, the belt having a first, planar side and a second side opposite the first side (see Fig. 1);  
forming teeth (4) along the second side;  
coating the teeth with a fabric (5) (paragraph 0018, lines 1-2);  
coating the fabric with a resistant layer (8) comprising a fluorinated plastomer, and elastomeric material (see paragraph 0028) and a vulcanizing agent (see paragraph 0032),

the fluorinated plastomer being present in the resistant layer (8) in an amount greater than an amount of the elastomeric material (see paragraph 0028, lines 5-7)

However Meco et al. doesn't explicitly disclose the fluorinated plastomer comprising mainly particles of an average size less than 10 micrometers; and directly adhering the resistant layer to the fabric coated over the teeth.

Osako et al. teach the fluorinated plastomer comprising mainly particles of an average size less than 10 micrometers (see paragraphs 0062 and 0063);

and directly adhering the resistant layer (8) to the fabric coated over the teeth (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the belt of Meco et al. to include plastomer particle configuration taught by Osako et al. in order to decrease level of noise.

**As per claim 9,** Meco et al. and Osako et al. teach all the structural elements of the claimed invention, as mentioned in claim 8. Meco et al. further lacks said resistant layer being applied directly to the fabric via spreading.

Osako et al. teach said resistant layer (8) is applied directly to the fabric (5) via spreading (see paragraph 0025).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the belt of Meco et al. to include the layer application taught by Osako et al. in order to provide uniform structure.

**As per claim 10,** Meco et al. teach forming the elongate belt body includes embedding a plurality of longitudinal filiform resistant inserts or cords in the elastomeric material (paragraph 0017, lines 2-4).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Meco et al. (US# 2002/0015825)**, in view of **Osako et al. (EP 1,052,425)**, as applied to claim 5 above, further in view of **Di Meco et al. (EP 1,157,813)**.

Meco et al. and Osako et al. combination teaches all the structural elements of the claimed invention, as applied to claim 5 above, but doesn't explicitly disclose said resistant layer having a weight of between 50 and 80 grams per meter square.

Di Meco et al. teach a toothed belt having the concept of resistant layer having a weight of between 50 and 80 grams per meter square (see Table 1; mean density of 350-400 g/l with the specified thickness corresponds to weight of 80 grams per meter square which falls in the claimed range).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Meco et al. and Osako et al. to include the resistant layer weight taught by Di Meco et al. in order to provide optimal strength, weight and wear characteristics to the belt.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The reference Mori et al. 5861212 teach an adhesive composition and composite of rubber with fiber having similar features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nuri Boran ALTUN whose telephone number is (571) 270-5807. The examiner can normally be reached on Mon-Fri 7:30 - 5:00 with first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571 272 6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRADLEY KING/  
Primary Examiner, Art Unit 3683

NBA